

DONALD J. ECKELBERG

IBLA 88-625

Decided February 15, 1991

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer WYW-111658.

Affirmed.

1. Applications and Entries: Generally--Oil and Gas Leases: Applications:
Generally--Oil and Gas Leases: Noncompetitive Leases

BLM may properly reject a noncompetitive oil and gas lease offer for lands which received a minimum bid at a competitive oil and gas lease sale, even though the bidder subsequently withdrew the bid.

APPEARANCES: Donald J. Eckelberg, pro se.

OPINION BY ADMINISTRATIVE JUDGE KELLY

Donald J. Eckelberg 1/ appeals from a July 26, 1988, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting his noncompetitive oil and gas lease offer WYW-111658 for 223.55 acres described as lots 4, 5, N $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 9; and lot 5, NW $\frac{1}{4}$ SW $\frac{1}{4}$ sec. 10; T. 31 N., R. 71 W., sixth principal meridian, Converse County, Wyoming, filed on July 11, 1988.

The lands in appellant's offer had previously been subject to a competitive lease sale. The described land comprised part of parcel WY-209 which was listed in the March 1988 Notice of Competitive Lease Sale. Parcel WY-209 received the minimum bid of \$2 per acre in that sale, but the bid was subsequently withdrawn. 2/

In its decision rejecting appellant's offer, BLM stated that it "must reoffer these lands at a later sale. In accordance with 43 CFR 3110.1(b), 'Only lands that have been offered competitively under Subpart 3120 of this

1/ Eckelberg purports to represent his co-offeror Keith L. Mohl in this appeal. It is unclear, however, whether such representation can be authorized under 43 CFR 1.3. In view of our disposition of the appeal, we need not decide this question.

2/ At the time this competitive lease sale was conducted, Departmental regulations allowed withdrawal of a bid under limited circumstances.

43 CFR 3120.5(a)(1987). Such bid withdrawal is now prohibited. 43 CFR 3120.5-3(a), 53 FR 22845 (June 17, 1988).

title, and for which no bids have been received, shall be available for noncompetitive lease." (Emphasis in original.) Therefore, BLM rejected appellant's offer and refunded the rental. BLM also refunded the filing fee "since [BLM's] records were inaccurate and the parcel appeared to be available for noncompetitive leasing."

In his statement of reasons for appeal (SOR), appellant refers to the March 1988 "Notice of Competitive Lease Sale" which states at page 2 that "[p]arcel contained in this Notice of Competitive Lease Sale which are not sold will be available for regular noncompetitive offer on the first working day following the competitive sale." Appellant argues that since parcel 209 was not sold, his noncompetitive offer should be accepted. Appellant also asserts that he followed the rules of the March 1988 competitive sale and contends that BLM's interpretation of the rules is "very narrow." No answer to appellant's SOR was filed by BLM.

[1] Section 17 of the Mineral Leasing Act, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, 30 U.S.C. § 226(b)(1)(A) (1988), mandates leasing of Federal lands known to contain oil and gas by competitive bidding except that "[l]ands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered" for noncompetitive leasing. See also 43 CFR 3110.1(b).

In this case, a bid was received for parcel 209 and it was for the minimum acceptable amount. The bid, however, was later withdrawn and no sale resulted. As indicated by the above statutory and regulatory authority, noncompetitive leasing is not authorized if a minimum bid is received. It is not disputed that BLM received a minimum bid. We find no authority to support the proposition that this clear limitation does not apply where the bid is subsequently withdrawn and no sale occurs, despite any inference to the contrary that might be gleaned from the "Notice of Competitive Lease Sale." Therefore, we must conclude that BLM's decision to reoffer parcel 209 for competitive sale and reject appellant's noncompetitive offer was correct.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal from the decision of the Wyoming State Office is affirmed.

John H. Kelly
Administrative Judge

I concur:

James L. Burski
Administrative Judge